

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

DON R. CLARK,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

CV 12-191-M-DLC

ORDER

**FILED**

**FEB 18 2014**

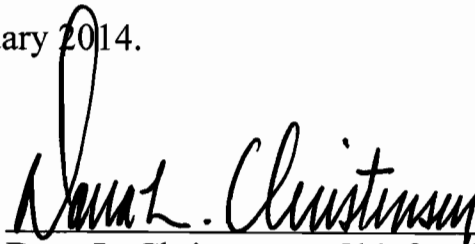
Clerk, U.S. District Court  
District Of Montana  
Missoula

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on January 8, 2014, recommending that Defendant's motion for summary judgment be granted, Plaintiff's motion for summary judgment be denied, and that the Commissioner's decision be affirmed. Defendant did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

There is no clear error in Judge Lynch's Findings and Recommendation. Judge Lynch did not clearly err in finding that substantial evidence supported the ALJ's decision to deny Clark's application for disability insurance benefits and that the ALJ's decision was free of legal error. Judge Lynch did not clearly err in finding that the ALJ's application of the steps in the sequential evaluation process was supported by substantial evidence and free of legal error. Likewise, Judge Lynch did not clearly err in finding that the ALJ provided sufficient reasons for rejecting, or giving little weight to, certain medical opinions while giving greater weight to others. Judge Lynch did not clearly err in finding that the ALJ provided sufficient reasons for making an adverse credibility determination with respect to some of Clark's testimony. Judge Lynch did not clearly err in finding that the ALJ adequately considered certain lay testimony. Finally, Judge Lynch did not clearly err in rejecting Clark's contention that evidence Clark submitted to the Appeals Council mandates reversal of the ALJ's decision.

Accordingly, IT IS ORDERED that Judge Lynch's Findings and Recommendation (Doc. 30) are ADOPTED IN FULL. Plaintiff's motion for summary judgment (Doc. 17) is DENIED. Defendant's motion for summary judgment (Doc. 26) is GRANTED. This case is CLOSED.

DATED this 18<sup>th</sup> day of February 2014.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

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Dana L. Christensen, Chief Judge  
United States District Court